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U.S. DISTRICT COURT
DISTRICT OF MASS.

June 27, 2005

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VIA HAND DELIVERY

Ms. Emily Schulman
Assistant United States Attorney
Office of the United States Attorney
United States Courthouse
One Courthouse Way, Suite 9200
Boston, MA 02210

Re: **United States v. Lempitski**
Crim. No. 05-10125-WGY

Dear Ms. Schulman:

Pursuant to Rule 16 of the Federal Rules of Criminal Procedure, Rule 116.3 of the Local Rules of this Court, as well as the Court's Order of May 24, 2005, the Defendant hereby requests that the United States produce to the Defendant the following discovery in the above referenced case:

(1) Copies of any search warrant (with supporting application, affidavit and return) relating to the search of the MBTA Money Room conducted on August 6, 2003, or of any other search relating to the government's investigation of the MBTA Money Room. By this request, the Defendant is also seeking, pursuant to Local Rule 116.1(C)(1)(b), a written description of any consent search or warrantless search of the MBTA Money Room (including—if applicable—the August 6, 2003 search) that was conducted between 2002 and the present by the MBTA Police, the FBI, the IRS, the Department of the Treasury or any other government entity.

(2) All documents relating to the investigation, evaluation, review and/or assessment of MBTA operations and the MBTA Money Room conducted by Thacher Associates LLC in 2003, 2004 and/or 2005, including (but not limited to) documents relating to any and all interviews of MBTA personnel conducted by Thacher Associates LLC, and any of its employees, officers or its agents in connection with that investigation, evaluation, review and/or assessment.

Ms. Emily Schulman
June 27, 2005
Page 2

(3) Copies of all notes, transcripts, recordings or other documents relating the exculpatory statements that you describe in paragraph G(1) of your letter to me of June 2, 2005.

(4) In your letter of June 2, 2005, you state that the government "is not presently disclosing those statements Mary Lempitski made to colleagues and friends on the MBTA police because they were not made in response to interrogation by those individuals." See Letter of June 2, 2005 at ¶ A(1)(d). In order for me to understand fully the government's position regarding these statements, please provide me with the dates and times of these statements, including the persons present and the facts which support the government's apparent position that these statements are not discoverable at this time.

(5) With respect to the various videotapes from the MBTA Money Room that are referenced in Paragraph A(1)(b) your June 2, 2005 letter, please let me know the specific file format of each of these multiplex videotapes. I require this information in order to determine whether I will require the production of copies of those tapes pursuant to Local Rule 116.4(A)(1).

(6) Defendant hereby requests that the government make available for inspection and copying all items discoverable pursuant to Fed. R. Crim. P. 16(a)(1)(E). In accordance with your letter, I will be in touch with you shortly regarding scheduling a mutually-agreeable time to review these materials and the various other materials described in your letter.

(7) The Defendant hereby requests that the government provide the defendant the written summary or summaries required by Fed. R. Crim. P. 16(a)(1)(G).

Defendant reserves the right to seek additional discovery in accordance with the Federal Rules of Criminal Procedure and the Local Rules of this Court.

Please do not hesitate to contact me if you have any questions or concerns regarding these requests. I look forward to speaking with you soon.

Sincerely,



Daniel J. Cloherty
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Attorney for the Defendant Mary Lempitski

cc: Clerk's Office